

MEETING MINUTES CITY OF MILPITAS

Minutes of: Regular Meeting of Milpitas City Council
Date: Tuesday, September 1, 2015
Time: 5:00 PM Closed Session
7:00 PM Open Session
Location: Council Chambers, Milpitas City Hall,
455 East Calaveras Blvd., Milpitas

CALL TO ORDER

Mayor Esteves called the meeting to order at 5:01 PM for Closed Session.

PRESENT: Mayor Esteves, Vice Mayor Montano, Councilmembers Barbadillo and Grilli

ABSENT: Councilmember Giordano

CLOSED SESSION

City Council convened in Closed Session to discuss existing cases of litigation and one case of anticipated litigation.

City Council then convened in Open Session at 7:00 PM.

ANNOUNCEMENT

No announcement out of closed session.

PLEDGE

Boy Scouts Troop No. 92 presented the flags and led the pledge of allegiance.

INVOCATION

Vice Mayor Montano read a passage from the bible to start the meeting.

MEETING MINUTES

Motion: to approve the minutes of August 18 and 24, 2015 City Council meetings

Motion/Second: Councilmember Grilli/Vice Mayor Montano

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Giordano)

SCHEDULE OF MEETINGS

Motion: to approve Council Calendar/Schedule of Meetings for September 2015

Motion/Second: Vice Mayor Montano/Councilmember Grilli

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Giordano)

PUBLIC FORUM

Rob Means, 1421 Yellowstone resident, talked about Personal Rapid Transit (PRT) and the potential costs to build and install.

Bob Nunez, Milpitas resident and School Board member, invited the City Council and all residents to go on Friday, September 18 to Levi Stadium in Santa Clara to watch the Milpitas High School football game. Tickets were available at the school district office.

Robert Marini, Milpitas resident, referred to a recent lawsuit about Proposition 218 and costs for utility services. Council must ask what were specific costs of service and thus, the fees charged.

Voltaire Montemayor, Milpitas resident, knew of everyone's concern for water. Highly combustible materials should be kept in the right place, he urged.

ANNOUNCEMENTS

None.

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

Interim City Attorney Baum asked Councilmembers if they had any personal conflicts of interest or reportable campaign contributions. None were reported.

APPROVAL OF AGENDA

Motion: to approve the meeting agenda

Motion/Second: Vice Mayor Montano/Councilmember Grilli

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Giordano)

CONSENT CALENDAR

Motion: to approve the Consent Calendar (items noted with *asterisk), as amended

Mayor Esteves asked to remove item no. 10 (Sports Center Fields project) and no. 12 (Main St. repavement construction) from consent.

Motion/Second: Vice Mayor Montano/Councilmember Grilli

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Giordano)

* 3. Odor Report update

Received the update of the odor control report.

* 4. Youth Advisory Commission

Per Mayor's recommendation, approved the following on Youth Advisory Commission: Re-appointed Alan Pham and Clare Sern as regular members to terms that will expire in September of 2016. Re-appointed Jashandeep Chahal as Alternate No. 1, Ravit Sharma as Alternate No. 3 and Christie Maly as Alternate No. 4 to terms that will expire in September of 2016.

* 6. Repairs Needed for Six Storm Pump Stations

Approved the emergency repairs of six Storm Pump Stations for the not-to-exceed amount of \$557,086.00 and appropriate funds from the City's General Government CIP Fund to the Public Works Utilities Maintenance Repair and Maintenance budget. Received the report on emergency repairs of the Bellew Pump Station.

* 7. Year End Budget Adjustments for FY 2014-15

Approved three Fiscal Year 2014-15 year-end budget appropriations:

- 1) Increase Planning and Neighborhood Services Department by \$2,260. The City collected fees from developers to be used for a General Plan update. During the fiscal year, the Planning Department incurred expenditure to initiate the update by filing a notice for CEQA Document Declaration at the County Recorder's office. The source of funding for the budget appropriations is the Community Planning Fund.
- 2) Increase non-department budget by \$6,937 for rental fees of a fence for the McCandless property. The source of funding for the budget appropriations is the Transit Area Impact Fee Fund.
- 3) Increase non-department budget by \$2,495. The increased amount is related to audit fee incurred for the audit of projects funded by the Transportation Development Act grant. The source of funding for the budget appropriation is the Street Improvement Fund.

* 8. Resolution

Adopted Resolution No. 8499 approving the Annual Investment Policy for FY 2015-16.

* 9. Resolution

Adopted Resolution No. 8500 authorizing the examination of sales or transactions and use tax records.

- *11. Water Meter Replacement Approved and authorized the Director of Engineering/City Engineer to execute change order No. 2 for the Automated Water Meter - Phase 1, Project No. 7121 cumulatively not to exceed \$25,000.

PUBLIC HEARING

1. Plastic Bag Ban Ordinance No. 287

Engineering staff Leslie Stobbe introduced two members of the Recycling and Source Reduction Advisory Commission (RSRAC), which had re-affirmed on April 28, 2105 its recommendation to City Council to adopt the proposed ordinance. Ms. Stobbe emphasized the primary reason was to reduce trash and debris in the waterways, creeks and streams throughout the City, and that would also help to meet statewide mandates on the City for its municipal stormwater discharge permit.

Mayor Esteves inquired about the 10 cents per bag charge for brown paper bags. Staff explained that was part of the ordinance and was designed to encourage use of cloth reusable bags that customers could bring from home. City staff would work with business owners on the requirement for tracking sales of single use paper bags by businesses.

Councilmember Barbadillo asked for comparative costs of paper bag to plastic bags. Ms. Stobbe replied that plastic bags could cost only pennies while paper bags could 10-14 cents per bag, though cooperative purchase was available to be cheaper for business.

Vice Mayor Montano asked about state legislation banning plastic bags that was adopted, and the ballot proposition in November 2016. She supported the fee of 10 cents per paper bag to encourage changing shoppers' behavior.

Councilmember Grilli inquired what the rationale was for exempting restaurants. Ms. Stobbe replied it was common in other cities to allow those. Milpitas had a high number rest and that the next action in some cities was to ban styrofoam take-out products in restaurants while allowing the plastic bags for the take-out food container.

Mayor Esteves asked Commissioners if they had any comments for the Council.

RSRAC Chair Eddie Inamdar noted that plastic bags floated in water ways and made the community dirty in addition to being non-compostible. He and the community wanted to keep Milpitas beautiful.

Mayor Esteves opened the public hearing.

Robert Marini, Milpitas resident, felt city was more concerned about plastic bags than getting a fine over incorrect charges for utilities. He did not favor a fee for shopping bags. It was imposing a service on the businesses to keep track of the data, too.

Andrea Ventura, of Clean Water Action with 50,000 members in the Bay Area including Milpitas, commented that plastic bags were "bad actor" trash, hurting wastewater systems. Another advantage of the ban was a fiscal one, helping ratepayers ultimately. The Council was acting sooner to help the pollution problem rather than waiting for the November 2016 ballot proposition. She remarked how well the ban was implemented in San Jose, where she lived.

Tim Howard, Milpitas resident and business owner, supported banning plastic bags to help with reducing trash. But, he strongly opposed the tally of the sale of paper bags to report to the City, especially by small businesses and storefronts. He requested that City Council exempt small businesses from the 10 cents per bag charge.

Alison Chan, from Save the Bay, a Bay Area organization with members in Milpitas, urged Council not to change the 10 cents per bag charge, as recommended. The fee for the paper bags does work to change behavior, she had seen in other communities.

Patty Sexton, Milpitas resident, was in support of banning plastic bags. She made a conscious effort not to use plastic single-use bags by re-using her cloth and synthetic material bags, including one distributed by the City. It helped the environment and beautified the City.

Chris Laffer, a Newark resident and member of Clean Water Action, worked to reduce trash throughout the Bay Area, especially those terrible plastic bags. He discussed the impacts of toxins in the water ways and effects on fish.

Michael Gardner, Fremont resident, shopped in Milpitas. He was willing and did buy the paper bags when needed. He was used to the change where he lived and encouraged having the same practice in Milpitas.

Voltaire Montemayor, Milpitas resident, shopped at WalMart and Grocery Outlet, where plastic bags were still available. He could be trained to change and would accept paper bags. He believed plastic bags were detrimental to the environment and general welfare. He had changed his mind.

Rob Means, Milpitas resident, said most corporations were driven by one single value: profit. They did not care about the environment, as discussed at this meeting. Corporations externalized costs while internalizing profits.

Carol Klein, 1421 Yellowstone resident, reported that where she shopped, some stores would give a credit of five cents or so when you bring your own bags. That was an incentive. Acting as a community was important to be kind and environmentally sensitive.

(1) Motion: to close the hearing, following comments from ten speakers

Motion/Second: Councilmember Grilli/Vice Mayor Montano

Motion carried by a vote of:

AYES: 4
NOES: 0
ABSENT: 1 (Giordano)

Mayor Esteves asked staff more questions about the process for small businesses to track the bag sales. Ms. Stobbe responded they would report to the City annually and repeated that staff would work with those businesses on method to do so.

Councilmember Grilli said the purpose of the ordinance was to ban plastic bags, not to encourage sales of paper bags and to use re-usable cloth bags.

Councilmember Barbadillo asked if the Engineering staff talked to Economic about the impact to businesses. Economic Development Manager Edesa Bitbadal came forward to answer yes, that she had discussed this and how to communicate this change to businesses in the City, several tactics which she described.

Vice Mayor Montano thanked the City Manager for the explanation as to why businesses needed to track sales of the paper bags, in order to report to the state on efforts made towards the requirements for the City's stormwater permit and for waste reduction.

Councilmember Grilli felt removing the 10 cents fee for paper bags would weaken the ordinance, so she wanted to leave it in as an incentive for consumers to bring their own shopping bags from home.

Mayor Esteves stated that businesses were ready for this change and were expecting it, based on nearby cities. It was about time and he supported the ban last time it came before the City Council in Milpitas.

(2) Motion: to find as a Responsible Agency that the adoption of an ordinance to restrict single-use plastic bags in Milpitas is exempt from CEQA under CEQA Guidelines Section 15307 and 15308, and that City of Milpitas was a participating agency in the County-wide Environmental Impact Report analyzing the environmental impacts of an ordinance to restrict single-use carry-out bags

Motion/Second: Councilmember Grilli/Vice Mayor Montano

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Giordano)

Interim City Attorney Gary Baud read aloud the title of Ordinance No. 287, “An Ordinance of the City Council of the City of Milpitas Adding Chapter 5 of Title III of the Milpitas Municipal Code Relating to Single-Use Bags.”

(3) Motion: to waive the first reading beyond the title of Ordinance No. 287

Motion/Second: Councilmember Grilli/Vice Mayor Montano

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Giordano)

(4) Motion: to introduce Ordinance No. 287 restricting use of single-use carry-out bags

Motion/Second: Councilmember Grilli/Vice Mayor Montano

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Giordano)

UNFINISHED BUSINESS

2. Overview of CalPERS

Mr. Ron Lind, a CalPERS Board member and Milpitas resident, provided an overview on the current status of the retirement program and its funding status. He discussed the financial health of the retirement fund with \$300 billion in assets and 2700 employees statewide. He described the value of defined benefits pension plans in public employment. PERS was always dealing with systemic risk in investment of its funds.

Mayor Esteves thanked him for his informative presentation to the Council.

Vice Mayor Montano thanked him and found it enlightening. She asked about the effect of China and the global economy on CalPERS. Mr. Lind responded about many factors that did influence the PERS funds, including those she'd mentioned.

Mayor Esteves asked if the City and PERS could do something about the ever-increasing rate of contribution for the City to pay. The collective bargaining process was involved in terms of how much employees contribute to PERS, Mr. Lind responded.

The Mayor invited comments from the audience.

Robert Marini, Milpitas resident, asked how much was in the Safety plan. Mayor Esteves replied with the various PERS formulas that employees have negotiated for retirement.

No vote was taken and the Mayor again thanked Mr. Lind for coming.

REPORTS

5. Sister Cities Commission

Leslie Stobbe, City staff liaison to the Sister Cities Commission, introduced Commission Chair Dennis Grilli who then discussed activities and the workplan for Sister Cities. A new sister city in South Korea would be sought this year in the fall to add to the four current relationships now in place.

Commissioners recommended a change in the by-laws to have one voting member in a seat for a representative of a company with a corporate presence in Milpitas. This would be to a change to one existing seat on the Commission, not adding one. The goal was to seek help with fund raising activity and seeking corporate sponsors.

Vice Mayor Montano noticed he had not mentioned outreach for a Sister City in Latin America. Ms. Stobbe pointed out this was item no. 6 on the Commission work plan.

Mayor Esteves wanted to include city staff to be covered by any stipend for possible future travel. Staff replied in the past it was determined that that would not be allowed.

Next, the Mayor invited the public to speak.

Voltaire Montemayor, Milpitas resident, talked about visitors from foreign countries. It was an honor for Milpitas and the exchange of cultures.

Motion: to approve the FY 2015-16 Work Plan and approve one change to the By-laws of the Sister Cities Commission related to membership

Motion/Second: Councilmember Grilli/Vice Mayor Montano

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Giordano)

AGREEMENTS

10. Bidder Package for Sports Center Fields

City Engineer Steve Machida came to the podium to brief the Council and the public on the Milpitas Sports Center playing field updates.

Mayor Esteves asked if work would be done by July 4, 2016 as stated in report, and staff said yes. He asked the City Engineer about various dates and steps in the schedule and plans. Primarily, the Mayor was concerned that work got done on time because there was no way that the City could not have use of the field for July 4th festivities.

Councilmember Grilli asked if there was any impact on the area for a skateboard park and staff said no, as that area would not be disturbed at all.

Mr. Machida stated that staff would come back to City Council in the next meeting or two with the project architect to show the community what was planned at the sports fields.

Motion: to authorize the City Engineer to issue a bidder pre-qualification package for the Milpitas Sports Center Sports Fields, Project No. 5104

Motion/Second: Councilmember Barbadillo/Vice Mayor Montano

Motion carried by a vote of: AYES: 5
NOES: 0
ABSENT: 1 (Giordano)

12. Main St. Reconstruction

Mayor Esteves asked Steven Machida to update the public on the project occurring along Main Street including the new trees. The Mayor asked staff about lights on the street or

adding to the project. Mr. Machida replied that staff had met with business owners this date to come up with a plan for attractive street lighting to go in along Main Street and to be prudent with underground lighting before any new street lights get installed.

Councilmember Grilli thanked the Mayor for bringing up this topic. Business improvement was needed all along Main Street so she was pleased with these efforts, including a plan for lighting.

Vice Mayor Montano mentioned that the Community Advisory Commission talked with an arborist about trees, and mentioned adding some trees to Main Street. Lights along the current project segment should match the style already installed along the more northern portion of Main (in the MidTown Plan area).

Councilmember Barbadillo asked about some of the financial details of the project, and the change order amount requested for approval here.

Mayor Esteves invited comments from the audience.

Voltaire Montemayor, Milpitas resident, lived close to the area and maybe it could extend further to the Milpitas Post building area, beyond the Milpitas Library.

Motion: to approve and authorize the Director of Engineering/City Engineer to execute contract change order No. 2 for \$250,000 for the Main Street Pavement Reconstruction, Projects No. 4277 and No. 3412

Motion/Second: Councilmember Grilli/Councilmember Barbadillo

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Giordano)

ADJOURNMENT

Mayor Esteves adjourned the City Council meeting at 10:05 PM.

The foregoing minutes were approved by the Milpitas City Council on September 15, 2015.

Mary Lavelle
Milpitas City Clerk